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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
Federal Communications Commission
Washington, DC

In the Matter of	)	
	)	
Amendment of Section 202(b),	)	
Table of Allotments,	)	RM-
TV Broadcast Stations	)	
(Ogden, Utah)	)	

To: Chief, Allocations Branch

SUPPLEMENT TO PETITION FOR RULEMAKING

Utah Communications, L.L.C., a California Limited Liability Company[1] ("Utah TV"), holder of a construction permit for Channel 24 at Ogden, Utah (File No. BPCT-950815KE),[2] hereby submits a supplement to its pending Petition for Rulemaking, filed on July 24, 1996, for modification of the Television Table of Allotments. In support therof, the following is stated:

On July 24, 1996, prior to the "freeze" on the filing of new NTSC applications and television allotments, Utah TV requested that the Television Table of Allotments be modified to specify Channel 42 in lieu of Channel 24. It was demonstrated that this change is necessary to allow operation of the new station at Odgen from Farnsworth Peak, the location from which all other stations in the market are proposing to locate.

Since the time of the original proposal, the FCC has released its *Sixth Report and Order* in the Digital Television Proceeding, MM Docket No. 87-268, 12 FCC Rcd 14588 (1997). It has been

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1 The original petitioner, "Utah Television, LLC", has changed its name to "Utah Communications, LLC".

2 At the time the Petition was filed, although Utah TV had entered into a settlement agreement for acquisition of the permit, the permit had not yet been awarded. The permit was issued to Utah TV on October 7, 1997.

determined that while Channel 42 no longer is suitable for use in Ogden, Utah, as an analog television assignment, Channel 49 is instead available to replace Channel 24 as an NTSC allotment. As seen in the attached Engineering Report, the allotment complies with all pertinent spacing requirements, and further, can be used both as an NTSC allotment presently, and a DTV allotment in the future.

As noted previously, granting a channel change to facillitate a change in frequencies is in the public interest. It will allow the station to increase its service area and become more competitive, while permitting viewing to enjoy a common antenna orientation. As the Engineering Statement points out:

> The Channel 24 NTSC facility authorized in the construction permit (FCC File No. BPCT-950815KE) is located west of Ogden at the same site as KUWB, Ogden, Utah (FCC File No BLCT-860110KM). Since most of the TV stations in the area are located atop Farnsworth Peak...home television antennas are oriented south [which will cause] less than optimal reception of NTSC Channel 24. The typical roof top antenna (log periodic or yagi style) suppresses signals that are 90° away from the front of the antenna such as the case at hand. The reception deficiency places the station at a disadvantage.

Attachment 1. As also noted therein, the sole television station that remained located to the west of Ogden, namely Station KUWB, already has departed Little Mountain, and commenced operations from Farnsworth Peak, on or about April 28, 1998 (File No. BLCT-980428KF). As concluded in the attached Report:

> the reference point proposed herein at an established communications site atop Farnsworth peak...provides the best location for FM and TV transmission facilities in the Ogden/Salt Lake City area." Section 73.614(b)(5) of the Commission's Rules all stations in the market to

Attachment 1. As also noted in the Report, Channel 49 can be used either for NTSC or DTV operations. Utah TV has not yet been assigned a DTV allotment. As noted recently in "Broadcasting Magazine," future DTV operations makes the station location even more crucial:

> if just one station is not co-located, that station will cease to exist for DTV viewers...because of the high degree of antenna directionality needed to receive DTV pictures...

Attachment 2.

Channel 49, which is unassigned in the entire state of Utah, and meets full milage separation standards with other stations from Farnsworth Peak, provides full city-grade coverage to Ogden, Utah. Accordingly, Channel 49 can be substituted for Channel 24 at Ogden, which will allow for Channel 49 to operate from Farnsworth Peak with no milage separation conflicts in accordance with the Commission's Rules. Adoption of this proposal therefore would be in the public interest. In Amendment of Section 606(b) (Bellingham and Anacortes, WA), 7 FCC Rcd 5453 (MMB 1992), recon. denied, 8 FCC Rcd 460 (MMB 1993), the Commission allowed the substitution of UHF Channel 24 for Channel 63 at Bellingham, Washington, in order to allow the permittee to operate its station at increased power, at parity with other stations in the market. In Amendment of Section 73.606(b) (Jacksonville and Palatka, Florida), 3 R.R.2d (1964), the Commission adopted a proposal also similar to that proposed herein. In that case, Channel 17 was substituted for Channel 36 at Jacksonville, Florida, and the Jacksonville permittee's license was modified to reflect operation on Channel 17 rather than Channel 36, and Channel *36 was substituted for vacant Channel *17 at Palatka. Similarly, in Amendment of Section 73.606(b) (Crossville, Tennessee), 47 R.R.2d 1285 (Broadcast Bureau 1980), the noncommercial education reservation for Crossville, Tennessee, which was unoccupied and unapplied for, was changed from Channel *20 to Channel *55 and the Crossville licensee's license was modified to reflect operation on newly unreserved commercial channel, Channel 20. In the Crossville case, the channel switch and license modification was deemed to be in the public interest because such a change would facilitate a more favorable economic situation for the affected

commercial station by making it more competitive. See also, Amendment of Section 606(b) (Seaford, Delaware), 43 R.R.2d 1551 (Broadcast Bureau 1978); Amendment of Section 73.606(b) (Columbus, Mansfield and Newark, Ohio), 21 F.C.C.2d 145 (1970). Similarly, in the Notice of Proposed Rule Making recently adopted with respect to Kansas City, Missouri, DA 96-945 (June 21, 1996), the Commission is considering a proposal whereby the permittee of Channel 32 in Kansas City has requested a modification of its construction permit to specify operation on Channel 29, and requested that the coordinates of a vacant allotment be changed to accommodate the requested substitution. In fact, the permittee was granted an STA to allow for immediate operation of the new proposed channel, to avoid delays in the commencement of operation of the station during the Commission's finalization of the DTV Table of Allotments. Attachment 3.

In the instant case, public interest considerations strongly support adoption of Utah TV's proposal. If forced to operate from Little Mountain, this new station will be unable to achieve a signal strength competitive with the other area commercial stations, both in Ogden and the entire market. The proposed amendment of the Table of Allotments will enable the new station to achieve competitive parity with the other stations by allowing co-location of its transmitter.

Moreover, as noted previously, operation on Channel 24 from Little Mountain necessitates operation to the west of Ogden, while all other area television stations operate or plan to operate from sites located to the south of Ogden. The substitution and resultant co-location proposed herein will eliminate the reception disadvantage the new station would be faced with from operation at a location requiring different receive-antenna orientation. Consequently, outdoor receiving antennas in operation in this area generally will be located *away* from Channel 24 (and require Channel 24 to

operate at a severe competitive disadvantage *vis a vis* existing Ogden stations).[3] The Commission has allowed channel substitutions to occur in the past where the grant would permit a petitioner to locate at a preferred transmitter site (*e.g.*, its AM tower) (Campbellsville, Smiths Grove, Cave City, Horse Cave, and Liberty, Kentucky; Donelson and Mt. Juliet, Tennessee, 4 FCC Rcd 5770 ¶ 6 (Chief, Allocations Branch 1989)), and the Commission specifically has stated that permitting multiple area stations to locate a transmission sites in close proximity to one another (*e.g.*, an "antenna farm") is an "independent public interest benefit" supporting grant of a relocation request, which prevents the creation of unwanted competitive imbalances among stations. Elba Development Corp., 55 R.R.2d 647, 651 (1984). See also, Carolina Broadcasting Co., 18 F.C.C.2d 482, 484 ¶ 6 (1969) (Commission encourages use of antenna farms to promote air safety and to minimize antenna orientation problems); Indiana Broadcasting Corp., 25 F.C.C.2d 421, 424 ¶ 7 (1970) (Commission has recognized that simplification of receiver antenna orientation can be a public interest factor); WCCY, Inc., 16 F.C.C.2d 506, 535 ¶ 50 (Rev. Bd. 1969) (antenna orientation is indeed a matter of proper consideration by the Commission); WTCN Television, Inc., 14 F.C.C.2d 870, 891 (Rev. Bd. 1968).

Finally, the proposed change is in the public interest insofar as it will not affect any existing commercial operations, since Channel 49 is unassigned in the area. Moreover, insofar as the station is not yet on the air, a change in channels will not cause disruption to existing service or viewing

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[3] Antenna orientation problems are caused by the signals arriving from different directions that a viewer cannot, with one receiving antenna, get clear pictures from all desired locations. WTCN Television, Inc., 14 F.C.C.2d 870, 891 n.32 (Rev. Bd. 1968). Moreover, the Commission has recognized that this problem is especially acute with UHF reception *vis a vis* VHF reception. UHF reception suffers from a technical disadvantage, such that tuning is less automatic, takes more time, and has a greater tendency to drift, and UHF antenna usually are required for reception and their orientation must be relatively precise. Midwest Television, Inc., 13 F.C.C.2d 514, 526-27 ¶ 48 (I.D. 1967).

habits. Finally, since this proposal contemplates merely a substitution of channels allotted to Odgen, the substitution is not affected by the FCC's freeze on television allotments. Amendment of Section 606(b) (Bellingham and Anacortes, WA), 7 FCC Rcd 5453, ¶ 8 (MMB 1992), recon. denied, 8 FCC Rcd 460 (MMB 1993).

Conclusion

The modification to the Table of Allotments being presented herein will result in a preferential allotment of channels that will be in the public interest. The station is ready to commence operations immediately. Prompt consideration of this proposal will expedite the provision of new, superior service to the public. For all of the reasons stated herein, it is respectfully requested that this Petition be granted.

Respectfully submitted,

UTAH COMMUNICATIONS, L.L.C.
a California Limited Liability Company

By: _____
Dan J. Alpert

Its Attorney

The Law Office of Dan J. Alpert
2120 N. 21st Rd.
Suite 400
Arlington, VA 22201
(703) 243-8690

July 24, 1998

ATTACHMENT 1

Engineering Exhibit

PETITION FOR RULEMAKING
To Amend The TV Table of Allotments
To Specify The Deletion of Channel 24 at Ogden, Utah
And The Addition of Channel 49 at Ogden, Utah (Site Restricted) .

prepared for

Utah Television, L.L.C.

Utah Television, L.L.C. ("*Utah TV*") in an earlier, separate proceeding requested that the Federal Communications Commission ("FCC") amend its *Table of Allotments* (Section 73.606(b) of the FCC Rules) to replace the existing Channel 24 NTSC allotment at Ogden, Utah for KAZG(TV) with a proposed Channel 42 NTSC allotment at Ogden, Utah. Now, *Utah TV* is requesting the FCC substitute Channel 49 in place of the proposed Channel 42 NTSC allotment at Ogden, Utah. This substitution is necessary due to changes in the Digital Television ("DTV") table of allotments released on February 23, 1998 as part of the **Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order** for MM Docket No. 87-268.[1]

Utah TV's proposed reference point the for the Channel 49 NTSC allotment is North Latitude 40° 39' 35", West Longitude 112° 12' 5". The instant proposal can be used for NTSC operation now DTV operation at some later date. The proposed reference point meets all the pertinent distance spacing requirements for both an NTSC and a DTV allotment, as illustrated in the following table:

Channel 49 at Ogden, Utah

					Distance in kilometers	
		Channel			NTSC	DTV
Station	City	Relationship	Channel	Actual	Required	Required
KULC-DT	Ogden, UT	-15	34	6.7	<24.1 to 96.6>	none
KUTV-DT	Salt Lake City, UT	-14	35	6.8	<24.1 to 96.6>	none
KUED-DT	Salt Lake City, UT	-7	42	6.7	<24.1 to 96.6>	none
New-DT	Burley, ID	-1	48	247.1	<12 to 106>	<24 to 110>

This site is 65.5 kilometers from the reference coordinates of Ogden, Utah. As indicated in the table, the proposed reference point is within 24.1 kilometers of DTV assignments on Channels 34, 25, and 42. Since the proposed Channel 49 NTSC allotment must be within 24.1

[1]The February 23, 1998 Digital Television Table of Allotments specifies an assignment of DTV Channel 42 to KUED-DT, Salt Lake City, Utah.

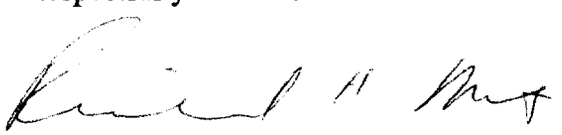
kilometers of the existing DTV assignments and since the proposed reference point meets this requirement, it is respectfully requested that the instant proposal be processed as a ***Site Restricted*** allotment.

The proposed reference point is an established communications site located atop Farnsworth Peak. By employing a Channel 49 NTSC facility with a maximum effective radiated power ("ERP") that complies with Section 73.614(b)(5) of the FCC Rules, a signal strength of 80 dBμ F(50,50) or better can be provided over the entire city of Ogden. Likewise, a Channel 49 DTV facility with an ERP that complies with Section 73.622(f)(8) of the FCC Rules, would provide a signal strength of 41 dBμ F(50,90) or better over Ogden. *Utah TV,* will, under separate cover, provide the FCC with a proposal for a companion Channel 44 DTV assignment at the reference point indicated earlier. The companion channel will be needed during the transition period during which the proposed NTSC Channel 49 will operate simultaneously with the proposed DTV Channel 44.

As previously stated, the reference point proposed herein is located at an established communications site atop Farnsworth Peak. Farnsworth Peak provides the best location for FM and TV transmission facilities in the Ogden/Salt Lake City area. The Channel 24 NTSC facility authorized in the construction permit (FCC File No. BPCT-950815KE) is located west of Ogden at the same site as KUWB, Ogden, Utah (FCC File No. BLCT-860110KM). Since most of the TV stations in the area are located atop Farnsworth Peak, see **Figure 1** attached hereto, home television antennas are oriented south causing less than optimum reception of NTSC Channel 24. The typical roof top antenna (log periodic or yagi style) suppresses signals that are 90° away from the front of the antenna such as the case at hand. This reception deficiency places the station at a disadvantage. KUWB has been authorized (FCC File No. BMPCT-960531LF) to locate its transmitter at the same communications site mentioned above. In fact, the KUWB CP site is 0.71 kilometers from the proposed Channel 49 reference point.

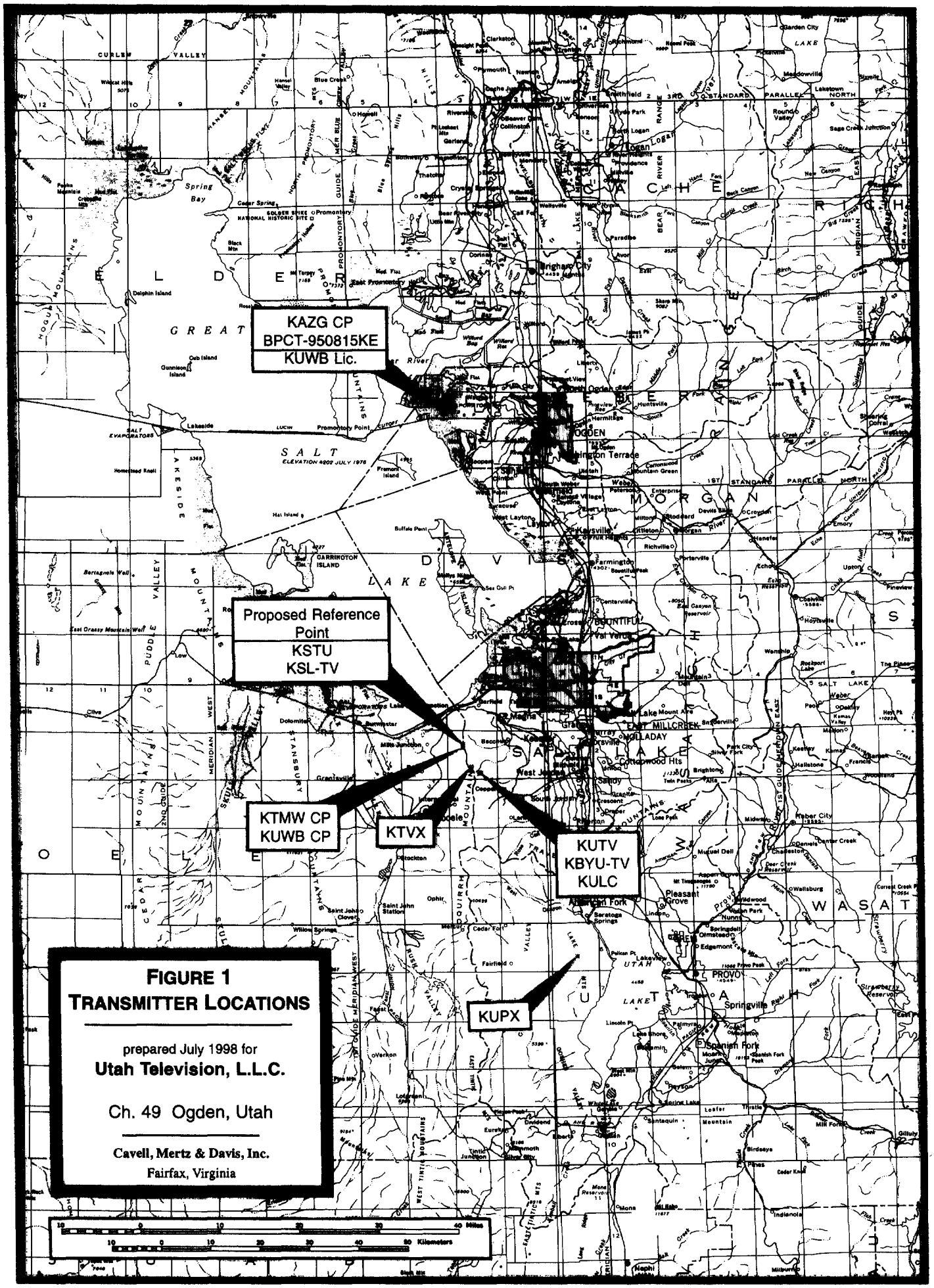
Given that the instant proposal meets the requirements for a site restricted NTSC allotment on Channel 49 to serve Ogden, Utah, *Utah TV* respectfully requests that the FCC amend the table of allotments to replace NTSC Channel 24 as allotted to Ogden, Utah with NTSC Channel 49, allotted to Ogden, Utah.

Respectfully submitted



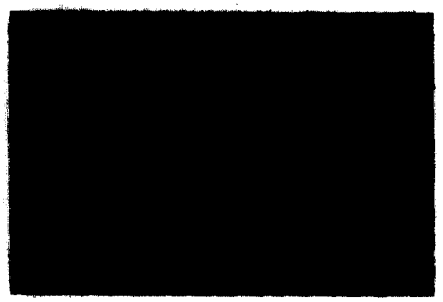
Richard H. Mertz

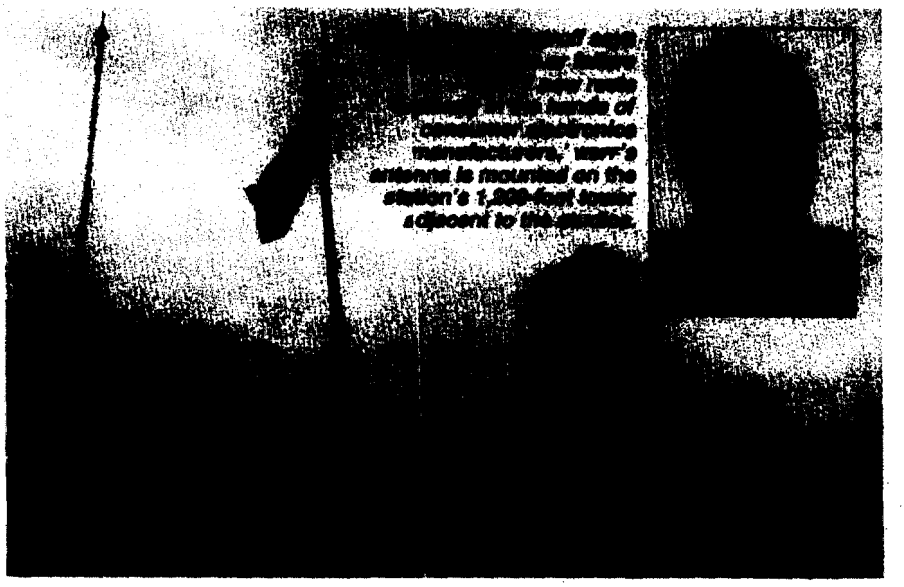
July 13, 1998


KAZG CP
BPCT-950815KE
KUWB Lic.
Proposed Reference Point
KSTU
KSL-TV
KTMW CP
KUWB CP
KTVX
KUTV
KBYU-TV
KULC
KUPX
FIGURE 1
TRANSMITTER LOCATIONS
prepared July 1998 for
Utah Television, L.L.C.
Ch. 49 Ogden, Utah
Cavell, Mertz & Davis, Inc.
Fairfax, Virginia

ATTACHMENT 2

NTSC is still the top priority





Fox affiliate WBFF-TV Baltimore is the only experimental DTV station in the Sinclair Broadcast Group, according to Nat Ostroff, Sinclair's vice president of new technologies. The multichannel 480P DTV tests that were conducted on an experimental basis on ch. 40 started in early April and ended in late June. This channel is now off the air, Ostroff says.

"We did a multichannel demonstration one month ago, with ch. 46 running 1080I and ch. 40 running 480P. We think 480P/30 is very spectrum-efficient. On a 32-inch screen, the multichannel pictures looked great," says Ostroff, who makes it clear that he ranks among the chief skeptics whenever the topic is HDTV.

"Sinclair owns or programs 57 other stations besides WBFF," says Ostroff. "We're building a half-dozen towers in different locations—but we're doing it, first, because we see it improving the existing NTSC signal, and second, [to see] if it can carry DTV. Other than our previously announced transmitter-related purchase agreement with Comark, we have not signed any contracts with any other manufacturers for digital transmission or other DTV-related hardware. This includes any DTV antennas."

Using the Comark 10-X DTV transmitter linked to a Scala Paraflector narrow-beam, high-gain antenna mounted on WBFF's permanent 1,200-foot tower adjacent to the WBFF studios, Sinclair has been conducting point-to-point digital testing. The testing employs horizontal polarization with one radial illuminated. The ATSC-compliant encoder was supplied by Divicom. This encoder is now back at Divicom, according to Ostroff.

With the WBFF studios located at the base of the tower, no studio-to-transmitter link is required. Instead, WBFF runs fiber from the master control to the transmitter.

"We did prototype receiver reception tests using a mix of taped material and satellite feed. We did not use bitstreams; rather we relied entirely on on-air material," Ostroff says. "What we found, among other things, is that the answer to the question of whether or not you can receive DTV in the same location as analog is clearly no. We also saw that the receiver had difficulty separating the DTV signal on ch. 46 from our analog signal on ch. 45. That's a front-end issue."

Ostroff indicates that the cliff effect is immediately noticeable—and if a top-line Radio Shack antenna is off by as little as 15 degrees, the receiver will not produce a picture because of multipath signals. Ostroff says that the narrow-beam antenna consistently offered a signal strength that was 20 dB above threshold and that in all positions the existing NTSC signal was very good.

During one test, a panel van driving by completely knocked out the DTV test signal that was reaching an outdoor antenna mounted 10 feet off the ground.

"Multipath is encountered at most locations, and this makes the signal very fragile. A better antenna will work, but just consider what is likely to happen in the average market where the broadcasters are not co-located.

"What are we going to do? Are we prepared to require the consumer to buy a new antenna mount with a built-in rotator where you set the dial and the thing goes click-click-click as it spins?" Ostroff asks. "Say good-bye to DTV channel-surfing. We set up just two miles out from the tower with no tall buildings in sight, and we still had multipath problems, even with a narrow-beam antenna."

Ostroff stresses the importance of co-locating all DTV stations at one location—"That's essential wherever it is possible to do so," he says—because if just one station is not co-located, that station will cease to exist for DTV viewers, he maintains. That's because of the high degree of antenna directionality needed to receive DTV pictures, he says.

"We're waiting to see what the consumer electronics manufacturers have on their receivers when they come out in the fall," says Ostroff. The adaptive equalizers in the DTV receivers need to be able to make more precise adjustments—and make them more quickly—to combat multipath interference, he says. The adaptive equalizers also must deal both with multipath interference caused by a distant obstruction and with multipath that originates close to the receiver, such as that created by the walls of a viewer's home. Dealing with both of these issues, he says, will require TV manufacturers to spend more on silicon chip processing power.

"The broadcasters have done everything they said they would do," says Ostroff. "The success or failure of DTV now rests squarely in the hands of the consumer electronics manufacturers."

—Peter Brown, B&C correspondent

ATTACHMENT 3

Federal Communications Commission
Washington, D.C. 20554

JUN 21 1996

1800E1-RH

TV-32, Incorporated
The Skelly Bldg., Suite 300
605 West 47th Street
Kansas City, MO 64112

Re: KCWB(TV)
Kansas City, MO

Gentlemen:

This refers to your attorney's letter dated April 30, 1996, requesting special temporary authority (STA) to construct and commence operation at variance from the parameters authorized in your construction permit (BPCT-861216K4) for authority to construct a new television broadcast facility, KCWB(TV), in Kansas City, Missouri. Your construction permit authorizes operation on Channel 32 at the geographical location North Latitude: 38-52-16, West Longitude: 94-26-15 with an effective radiated power (ERP) of 5,000 kilowatts and height above average terrain (HAAT) at 322 meters. However, you indicate that you are being compelled to seek the substitution of a new channel for Channel 32 for technical reasons.

Specifically, you state that TV 32 has recently learned that it cannot obtain a permit from local zoning authorities to construct station KCWB(TV) on Channel 32 as authorized and that there is no fully spaced site available for which TV 32 can obtain zoning approval. You state that after your authorized site was rejected unanimously by the local zoning board, you have searched exhaustively for alternative sites which would meet the Commission's minimum separation requirements, community-of-license coverage requirements, and the air-hazard requirements of the Federal Aviation Administration, but have not been successful.

In this connection you have petitioned the Commission to initiate a rulemaking proceeding looking toward the amendment of Section 73.606(b) of the Commission's Rule, the TV Table of Allotments, to substitute commercial Channel 29 for Channel 32 at Kansas City, Missouri. Your petition also requests that your Channel 32 construction permit be modified without exposing the allocation to competing applications. A Channel 29 facility, you allege, would meet all Commission technical requirements and could be located in an existing de facto antenna farm. Pending final Commission action on your petition for rulemaking, you request special temporary authority to construct and operate station KCWB(TV) on Channel 29 at Kansas City, MO.

[redacted] support of your request you state that operation on Channel 29 in lieu of Channel 32 would permit the earliest possible initiation of a new television service in Kansas City, Missouri. You note that TV 32 has secured an affiliation with the WB Network and would bring that Network's programming to Kansas City for the first time. TV 32, you state, will be able to start construction immediately for a Channel 29 facility without local regulatory approval.

The staff has reviewed your request for STA and believes the public interest would be served by granting you authority to provide the Kansas City community with a new television service. In addition, the station's affiliation with the Warner Brothers network will provide the first programming of this kind in the Kansas City area. Accordingly, pursuant to Section 73.1635 of the Commission's Rules, Special Temporary Authority to operate on channel 29 as specified below IS GRANTED. We caution you, however, that your construction of a Channel 29 facility is at your own financial risk. If your petition to amend the Table of Allotments is denied, your authority to continue operating pursuant to the STA will terminate. Additionally, grant of this request for special temporary authority should in no way be interpreted as supportive of, or a preliminary opinion with respect to, your petition to amend the Table of Allotments. That petition will be reviewed on the basis of existing precedent and the record developed in that proceeding. This authority expires six (6) months from the date of this letter.

Specifications:

(1) Geographical Location: N.L. 39-05-01, W.L. 94-30-57
(2) ERP: 263 kw
(3) HAAT: 281 meters
(4) Antenna: Dielectric, TUP-04-2-1 modified for 3 degrees electrical beam tilt, side-mounted on existing KMBC-TV tower

Be advised that this authority is subject to the condition that no interference is caused to any other authorized station.

Sincerely,

Roy J. Stewart

Roy J. Stewart
Chief, Mass Media Bureau

cc: Meredith Senter, Jr.
Keith Larson, Assistant Chief, MMB
John Karousos, Chief, Allocations Branch